

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2021-153-S – ORDER NO. 2021-____

IN RE:)	
)	
APPLICATION OF PALMETTO WASTEWATER)	
RECLAMATION, INCORPORATED FOR)	PARTIAL PROPOSED
ADJUSTMENT OF RATES AND CHARGES)	ORDER ¹
_____)	

I. INTRODUCTION

This matter comes before the Public Service Commission of South Carolina (“Commission”) on the Application of Palmetto Wastewater Reclamation, Inc. (“PWR” or “Company”), for an increase in rates and charges for the provision of sewer service and the modification of certain terms and conditions related to the provision of such service.

PWR is a public utility, as defined by S.C. Code Ann. § 58-5-10(4) (2015), providing wastewater collection and treatment service to 8,009 equivalent dwelling units (“EDUs”) of residential and commercial customers as of September 2, 2021.² These customers are located in Richland and Lexington counties. Treatment of wastewater generated by PWR’s customers is performed at PWR’s Alpine/Stoops Creek Wastewater Treatment Plant (“WWTP”) and the Woodland Hill WWTP, which are operated pursuant to a National Pollutant Discharge Elimination

¹ The South Carolina Department of Consumer Affairs presented testimony on specific issues in this matter; therefore, this proposed order only addresses those issues.

² Moul Dir., p. 3, ll. 10-11; Tr. p. 139.3.

System permit issued by the South Carolina Department of Health and Environmental Control, allowing for discharge of up to a combined 2.288 million gallons per day.³ The Company is a wholly-owned subsidiary of Ni South Carolina, Inc., which is ultimately owned by SouthWest Water Company (“SWWC”), a privately held company.⁴

PWR’s current schedule of rates and charges for customers was approved by Order No. 2019-314, issued May 14, 2019 in Docket No. 2018-82-S. Under that schedule, PWR charges residential customers a flat rate of \$37.92 per month. Mobile home customers are charged a flat monthly rate of \$28.30. Commercial customers, including industrial customers, are charged a flat monthly rate of \$37.92 per single family equivalent (SFE). The previously approved rates gave PWR an opportunity to earn additional annual revenues of \$327,548; a return on rate base of 7.81% based upon a return on equity (“ROE”) of 9.93% and a cost of debt of 5.23%; and a capital structure of 55% equity and 45% debt, all of which resulted in an operating margin of 14.56%.⁵

By its application, PWR seeks an increase in its monthly service charge to a flat rate of \$43.12 for residential customers, \$32.18 for mobile home customers, and \$43.12 for commercial customers per SFE. If approved, these rates would result in a total increase of 13.72% for all three classes (\$5.20 for residential customers, \$3.88 for mobile home customers, and \$5.20 for commercial customers). PWR also seeks rate base treatment and certain tariff modifications for a test year ending December 31, 2020.

³ Application Exhibit C, p. 39 of 53. Alpine/Stoops Creek authorized discharge is 2 million gallons per day and Woodland Hill authorized discharge is .288 million gallons per day.

⁴ Garrett Dir., p. 76, ll. 11-14; Tr. p. 268.76

⁵ See Order No. 2019-314, p. 15; Order No. 2019-314 Exhibit 1, p. 4.

Since PWR's last rate relief proceeding, it indicates it has made approximately \$2 million in capital improvements to its wastewater facilities.⁶ Included in the amount are, among other things, replacement of effluent pumps, rebuilding floating brush aerators, enhancement of the lab facility, and replacement of 2500 linear feet of gravity sewer line and 140 linear feet of main trunk sewer line.⁷

II. PROCEDURAL HISTORY

On May 3, 2021, PWR filed with the Commission its Notice of Intent to seek rate relief. This notice was provided to the South Carolina Office of Regulatory Staff ("ORS") as required by S.C. Code Ann. § 58-5-240(A) (2015) and to the South Carolina Department of Consumer Affairs ("Department" or "DCA") as required by S.C. Code Ann. § 37-6-604(C) (Supp. 2020). PWR filed its Application on June 16, 2021, pursuant to S.C. Code Ann. § 58-5-240 (2015) and S.C. Code Regs. 103-503 and 103-512(4)(A) (2012).

By letter dated June 30, 2021, the Clerk's Office of the Commission instructed PWR to publish a Notice of Filing and Hearing ("NOFH") in newspapers of general circulation in the area affected by PWR's Application and to mail copies of the same to all customers affected by the proposed rates and charges. Among other things, the NOFH provided information regarding the nature of the Application and advised any person desiring to participate as a party of record to file a Petition to Intervene on or before September 6, 2021. PWR filed its Affidavit of Publication on July 13, 2021, demonstrating that the NOFH was published in accordance with the instructions of the Clerk's Office.

⁶ Application Para. 13, p. 4.

⁷ Sorenson Dir., p. 3, ll. 16-21; Tr. p. 67.3.

On June 18, 2021, a Petition to Intervene was filed by Roger Hall as Deputy Consumer Advocate for the State of South Carolina on behalf of the Department. *See* Order No. 2021-113H. No other petitions to intervene were filed. Pursuant to S.C. Code Ann. § 58-4-10(B) (Supp. 2020), ORS is a party of record in this proceeding.

PWR filed direct testimony and exhibits of: Mujeeb Hafeez, Assistant Controller in Corporate Shared Services at PWR parent company SWWC; Craig Sorensen, President of PWR and Southeast Utility Systems, Inc., which oversees SWWC's business in Alabama, Florida, and South Carolina; Donald Burkett; Executive Vice President of Burkett, Burkett & Burkett, Certified Public Accountants, P.A.; and Paul Moul, Managing Consultant at P. Moul & Associates. The Company also filed the rebuttal testimony of Craig Sorensen, Donald Burkett, Mujeeb Hafeez, and Paul Moul.

The Department filed the direct testimony and exhibits of Aaron Rothschild, President of Rothschild Consulting, and Lafayette K. Morgan, Jr., Public Utilities Consultant with Exeter Associates, Inc. The Department also filed the surrebuttal testimony of Mr. Rothschild and the surrebuttal testimony and exhibits of Mr. Morgan.

The ORS filed direct testimony for: Christina Seale, Audit Coordinator in the Audit Department of ORS; Daniel Hunnell, Senior Analyst in the Water Operations Department of ORS; and David Garrett, Managing Member of Resolve Utility Consulting, PLLC. ORS also filed surrebuttal testimony for Christina Seale, Daniel Hunnell, and David Garrett.

A. Public Hearing

The Commission held one (1) public hearing on November 8, 2021 to allow PWR's customers an opportunity to present their views regarding the Application. The Honorable

Florence P. Belser, Vice Chair of the Commission, presided at the public hearing. One customer testified.⁸

B. Partial Stipulations Among Parties

Pursuant to S.C. Code Ann. §1-23-320(F), and all other applicable statutes and regulations, the parties filed twenty-four (24) stipulations on November 10, 2021. The stipulations resolved all issues in dispute between the parties except the authorized ROE. The stipulations, *inter alia*, address: (i) the appropriate adjustments to PWR’s expenses and revenues for ratemaking purposes; (ii) tariff language modifications that result in additional customer rights and protections; (iii) the appropriate capital structure of PWR for ratemaking purposes; (iv) the appropriate cost rate for PWR’s debt for ratemaking purposes; and (v) a “rate freeze” until June 2022.

On November 10, 2021, at the commencement of the evidentiary hearing, the parties’ stipulations were entered into evidence as Hearing Exhibit No. 2 without objection by any party.

The provisions of the parties’ partial stipulation provide a rate base of \$11,511,324; a cost of debt of 3.79%; a capital structure of 45% debt and 55% equity; rate case expense cap of \$160,000; amendments to tariff language which increase customer protections; and a stay out provision. The parties agreed to ORS’s recommended adjustment related to the Company’s allocation of corporate overhead and shared costs to PWR;⁹ ORS’s recommended adjustment to amortize rate case expenses over three (3) years;¹⁰ the correction to ORS Adjustment 3 – Depreciation Expense described in ORS Witness Seale’s Surrebuttal Testimony; revenue adjustments proposed by ORS based on the actual number of customers and equivalent residential

⁸ See Hr’g Ex. 1

⁹ ORS’s proposed adjustment to PWR’s Adjustment 2I – Miscellaneous Expenses

¹⁰ ORS’s proposed adjustment to PWR’s Adjustment 2G – Rate Case Expenses

customers by class as of the end of August 2021; and the following ratepayer protections (“ring-fencing provisions”) described in ORS Witness David J. Garrett’s Direct Testimony related to South Carolina Utility System, Inc.’s acquisition of Ni South Carolina, LLC (now Ni South Carolina, Inc.), the parent company of PWR, from Ni Pacolet Milliken Utilities, LLC (the “Acquisition”): (i) PWR will not seek recovery of any goodwill associated with the Acquisition in any future rate proceedings; (ii) PWR will not seek to recover any acquisition or transaction costs associated with the Acquisition in any future rate proceedings; (iii) PWR will not in any way be the guarantor of any debt for SWWC or any SWWC affiliate or subsidiary entities unless the debt is incurred for purposes specific to the PWR system and operations; (iv) Any debt incurred by PWR is and will only be used for purposes specific to the PWR system; and (v) PWR will not lend cash or any other capital directly to SWWC or any SWWC affiliate or subsidiary entities except for routine and prudent cash management practices.

The Parties also agreed the amount of rate case expenses to be amortized over three (3) years will not exceed \$160,000. The Parties agreed to amend Adjustment 2L to allow PWR recovery of the additional \$14,336 in chemicals expense requested in PWR Witness Burkett’s Rebuttal Testimony. The Parties agreed to various fallout adjustments to reflect the terms above and the ROE granted by the Commission. The Company agreed to amend its Rate Schedule to remove Section 13 - Limitation of Liability. The Company agreed to amend its Rate Schedule to remove language in the last paragraph of Section 1 – Monthly Charge such that it shall now read:

The Utility may, at its discretion, for the convenience of the owner, bill a tenant in a multi-unit building consisting of four or more residential units which is served by a master sewer meter or a single sewer connection. However, in such cases all arrearages must be satisfied before service will be provided to a new tenant.

The Parties agreed to PWR's request to amend Section 12 of its Rate Schedule to increase the maximum amount of its tampering charge to \$500.00. Finally, PWR agreed to not file for a general rate case before eighteen (18) months from the date the final order is issued in this proceeding, such that new rates will not be effective prior to twenty-four (24) months from the date the final order is issued in this proceeding.

C. Evidentiary Hearing

The evidentiary hearing was held on November 10, 2021 and November 12, 2021.¹¹ For the convenience of the parties, the hearing was held in part virtually and in part at the offices of the Commission.¹² The Honorable Justin T. Williams, Chairman of the Commission, presided at the public hearing. PWR was represented by Charles Terreni, Esquire and Scott Elliott, Esquire. DCA was represented by Roger Hall, Esquire and Connor Parker, Esquire. ORS was represented by Christopher Huber, Esquire, and Nicole Hair, Esquire.

As part of the partial stipulation, the parties agreed to stipulate into the record the pre-filed testimony and exhibits (collectively, the "Stipulated Testimony") of the below witnesses without objection, change, amendment, or cross-examination except for changes comparable to those that would be presented via an errata sheet or through a witness noting a correction consistent with the Partial Stipulation. With the exception of ORS Witness Daniel P. Hunnell II, the parties further agreed to the testimony and exhibits of the below witnesses being stipulated into the record without them appearing at the merits hearing on the Application. With respect to ORS Witness Hunnell, the parties reserved their right to engage in redirect examination or recross, if there was redirect,

¹¹ Due to the Veterans Day holiday, no hearing was held on November 11, 2021.

¹² Order No. 2021-140-H.

as necessary to respond to issues raised by the examination of ORS Witness Hunnell, if any, by non-parties, parties that are not signatories to the partial stipulation or the Commission.

PWR Witnesses:

1. Donald H. Burkett
2. Mujeeb Hafeez

DCA Witness:

1. Lafayette Morgan, Jr.

ORS Witnesses:

1. Christina L. Seale
2. Daniel P. Hunnell II

The remaining witnesses were sworn in and their pre-filed testimonies, including any corrections and accompanying exhibits, were accepted into the record.¹³ PWR, DCA and ORS presented their remaining witnesses for cross-examination from the parties and questioning from the Commission.

III. STATUTORY STANDARDS

Pursuant to S.C. Code Ann. §58-5-210 (2015), the Commission must fix just and reasonable rates. The Company is subject to the Commission's jurisdiction pursuant to S.C. Code Ann. §§ 58-3-140(A) and 58-5-210 (2015).

The Commission must determine a fair rate of return that the utility should be allowed the opportunity to earn after recovery of the expenses of utility operations. The legal standards for this determination are set forth in *Fed. Power Comm'n v. Hope Nat. Gas Co.*, 320 U.S. 591 (1944) ("*Hope*") and *Bluefield Water Works and Improvement Co. v. Pub. Serv. Comm'n of W. Va.*, 262 U.S. 679 (1923) ("*Bluefield*").

¹³ The testimony of PWR witness Donald Burkett was adopted by PWR witness Phillip Williams.

In Bluefield the United States Supreme Court held:

What annual rate will constitute just compensation depends on many circumstances, and must be determined by the exercise of a fair and enlightened judgment, having regard to all relevant facts. A public utility is entitled to such rates as will permit it to earn a return on the value of the property which it employs for the convenience of the public equal to that generally being made at the same time and in the same general part of the country on investments in other business undertakings which are attended by corresponding risks and uncertainties; but it has no constitutional right to profits such as are realized or anticipated in highly profitable enterprises or speculative ventures. The return should be reasonably sufficient to assure confidence in the financial soundness of the utility and should be adequate, under efficient and economical management, to maintain and support its credit and enable it to raise the money necessary for the proper discharge of its public duties. A rate of return may be reasonable at one time and become too high or too low by changes affecting the opportunities for investment, the money market and business conditions generally.

Bluefield, 262 U.S. at 692-93.

The Commission and South Carolina appellate courts have consistently applied the principles set forth in Bluefield and Hope. See S. Bell Tel. & Tel. Co. v. Pub. Serv. Comm'n, 270 S.C. 590, 244 S.E.2d 278 (1978). Quoting Hope, the South Carolina Supreme Court has stated:

Under the statutory standard of ‘just and reasonable’ it is the result reached not the method employed which is controlling...The ratemaking process under the Act, i.e., the fixing of ‘just and reasonable’ rates, involves the balancing of investor and the consumer interests.

S. Bell, 270 S.C. at 596-97, 244 S.E.2d at 281.

This Commission must exercise its dual responsibility of permitting utilities an opportunity to earn a reasonable return on the property it has devoted to serving the public, on the one hand, and protecting customers from rates that are so excessive as to be unjust or unreasonable, on the other, by “(a) Not depriving investors of the opportunity to earn reasonable returns on the funds devoted to such use as that would constitute a taking of private property without just compensation [, and] (b) Not permitting rates which are excessive.” *Id.* at 605.

Additionally, the Commission's determination of a fair rate of return must be documented fully in its findings of fact and based exclusively on reliable, probative, and substantial evidence on the whole record. *Porter v. S.C. Pub. Serv. Comm'n*, 332 S.C. 93, 98, 504 S.E.2d 320, 323 (1998). The Commission cannot decide an issue based upon surmise, conjecture or speculation. See *Herndon v. Morgan Mills, Inc.*, 246 S.C. 201, 209, 143 S.E.2d 376, 380 (1965).

Against this legal backdrop, the Commission has evaluated the evidence presented by all parties and reaches the legal and factual conclusions discussed below.

IV. RATE-MAKING METHODOLOGY

Generally, the Commission has wide latitude to determine an appropriate rate-setting methodology. *Heater of Seabrook, Inc. v. Pub. Serv. Comm'n of S.C.*, 324 S.C. 56, 64, 478 S.E.2d 826, 830 (1996). In its Application, PWR requested rate base treatment. No party opposed PWR's request. PWR witness Burkett testified the Commission should continue to determine PWR's rates using a rate-of-return methodology.¹⁴ The Commission finds and concludes the use of rate base methodology to be appropriate here and will utilize rate base methodology in setting PWR's rates in this proceeding.

V. TEST YEAR

S.C. Code Ann. Regs. 103-823(A)(3) (2012) requires the use of a historic twelve-month test period. The test year is established as the basis for measuring and calculating a utility's expenses, revenues, and return on rate base. *Porter*, 328 S.C. at 228-29, 493 S.E.2d at 96. The Commission considers proposed rate increases based upon occurrences within the test year, but

¹⁴ Burkett Dir., p. 7; Tr. p. 166.7

will also consider adjustments for any known and measurable changes outside of the test year. In its Application, PWR utilized the twelve months beginning January 1, 2020, and ending December 31, 2020 as its test year.¹⁵ DCA and ORS applied the same historic test year.¹⁶ Thus, the Commission finds and concludes that the test year beginning January 1, 2020 and ending December 31, 2020 is appropriate in this rate case.

VI. RATE OF RETURN

The determination of the rate of return on rate base requires three components: a) capital structure; b) cost of debt; and c) cost of equity (or return on equity). Order No. 2019-314.

A. Capital Structure

To fulfill its duty to set rates that are just and reasonable, it is an established principle of regulation that the Commission must ensure that each element of the costs passed through rates are prudently incurred. Included in those costs is the cost of capital as affected by the capital structure. The setting of just and reasonable rates requires the use of an appropriate capital structure even if it is not the utility's actual capital structure.¹⁷

The Company requested a capital structure containing 59.92% common equity and 40.08% long-term debt.¹⁸ Department witness Rothschild recommended a capital structure containing 49.26% common equity and 50.74% debt which reflects the capital structure of his proxy group.¹⁹ The common equity ratios of the seven companies in his proxy group are between 40.9% and

¹⁵ Application p. 2 of 53, Para. 5.

¹⁶ Morgan Dir., p. 4, ll. 18-19; Tr. p. 233.4; Seale Dir., p. 2, ll. 22-23; Tr. p. 240.2

¹⁷ Bruce Louiselle and Jean E. Heilman, *The Case for the Use of an Appropriate Capital Structure in Utility Ratemaking: The General Rule Versus Minnesota*, William Mitchell Law Review, Vol. 8, Issue 2 (1982).

¹⁸ Application Exhibit B, Schedule G, p. 5 of 53.

¹⁹ Rothschild Dir., p. 34, ll. 14-16; Tr. p. 194.34.

55.7%.²⁰ ORS witness Garrett recommended a structure of 50% equity and 50% debt.²¹ He found the Company's proposed capital structure would increase capital costs above a reasonable level.²²

The parties stipulated to a capital structure for ratemaking purposes of 45% debt and 55% equity.²³ The parties noted they believed this structure to be reasonable.²⁴ The Commission adopts the stipulation of the parties that this capital structure is reasonable for ratemaking purposes for this proceeding.

B. Cost of Debt

The determination of the long-term debt cost rate is usually an arithmetic exercise.²⁵ This is due to the fact that a company has contracted for the use of this capital for a specific period of time at a specified cost rate.²⁶ This is not the case for the debt of PWR.²⁷ Hence, there is no stated rate that can be utilized for setting the rate of return in this matter.²⁸

All parties agreed on the method of calculating an imputed cost of debt for PWR.²⁹ It is the average yield of the interest rates for Baa-rated public utility bonds.³⁰ PWR witness Moul calculated his proposed cost of debt of 3.79% based on the average of 2019 and 2020 yields.³¹ His rationale for choosing this period is that it contains bond yields that existed on average during the

²⁰ Rothschild Dir., p.34, ll. 9-17; Tr. p. 194.34.

²¹ Garrett Dir., p. 76, ll. 3-4; Tr. p. 268.76.

²² Garrett Dir., p. 76, ll. 1-2; Tr. p. 268.76.

²³ Partial Stipulation, p. 5, Para. 7; Hr'g Ex. 2, p. 5.

²⁴ Partial Stipulation, p. 6, Para. 14; Hr'g Ex. 2, p. 6.

²⁵ Moul Dir., p. 13, l. 14; Tr. p. 139.13.

²⁶ Moul Dir., p. 13, ll. 14-16; Tr. p. 139.13.

²⁷ Moul Dir., p. 13, l. 16; Tr. p. 139.13.

²⁸ Moul Dir., p. 13, l. 17; Tr. p. 139.13.

²⁹ Moul Dir., p. 13, ll. 17-19; Tr. p. 139.13. Garrett Dir., p. 76, ll. 7-8; Tr. p.268.76. Rothschild Surr., p. 3, ll. 15 17; Tr. p. 196.3.

³⁰ *Id.*

³¹ Moul Dir., p. 13, ll. 18-19; Tr. p. 139.13.

COVID-19 pandemic (i.e., 2020) and the year immediately preceding the pandemic.³² ORS adopted PWR's proposed cost of debt without any supplemental analysis.³³ DCA witness Rothschild adopted the methodology but recommended a more current timeframe for determining the average.³⁴ Rothschild calculated his proposed cost of debt of 3.67% based on the average Baa corporate bond yields for 2019, 2020 and up to August 2021.³⁵ Mr. Rothschild's rationale for extending the period for calculating the average to August 2021 is that market yields on Baa rated corporate bonds declined in 2021.³⁶

The parties stipulated to a 3.79% cost of debt for ratemaking purposes.³⁷ The parties stipulated they believed this to be reasonable.³⁸ The Commission adopts the stipulation of the parties that this cost of debt is reasonable for ratemaking purposes for this proceeding.

C. Return on Equity

The third component of return on rate base requires the Commission to consider the cost of equity or COE. The COE is the market-based return investors expect to earn on the market value of any given stock. The only perspective that is important to investors is the return that they can realize on the market value of their investment.³⁹ In this proceeding, the COE is the return investors require to provide equity capital to PWR.⁴⁰

While the COE is the return investors expect on any given stock, the return on equity, or ROE, is what the Commission will authorize for PWR. The COE should be based on current

³² Moul Dir., p. 13, l. 22 – p. 14, l. 2; Tr. pp. 139.13-139.14.

³³ Garrett Dir., p. 76, ll. 7-8; Tr. p. 268.76.

³⁴ Rothschild Dir., p. 34, l. 19 – p. 35, l. 2; Tr. pp. 194.34-194.35.

³⁵ Rothschild Surr., p. 3, ll. 15-17; Tr. p. 196.3.

³⁶ Rothschild Dir., p. 34, l. 20 – p. 35, l. 1; Tr. pp. 194.34-194.35.

³⁷ Partial Stipulation, p. 5, Para. 8; Hr'g Ex. 2, p. 5.

³⁸ Partial Stipulation, p. 6, Para. 14; Hr'g Ex. 2, p. 6.

³⁹ Moul Dir., p. 23, ll. 19-20; Tr. p. 139.23.

⁴⁰ Rothschild Dir., p. 2, ll. 13-15; Tr. p. 194.2

market conditions;⁴¹ therefore, the Commission-authorized ROE is based on the COE at the time of the proceeding as established by the record.⁴² The ROE thus incorporates investor expectations.⁴³ Once an ROE is authorized, the market-based COE may continue to fluctuate as capital markets change; however, the authorized ROE remains the same until the next rate case as it is based on a snapshot of the COE.⁴⁴

1. Witness Testimonies

Each party presented expert testimony regarding the appropriate ROE that should be authorized for PWR. In addition, PWR witness Sorensen submitted rebuttal testimony regarding his opinion on the ROE; however, Mr. Sorensen was not qualified as an expert regarding the appropriate ROE, fair rate of return, or anything related to finance.

PWR witness Moul and DCA witness Rothschild were each qualified “as an expert on the fair rate of return for a regulated utility, including its cost of debt, return on equity, and capital structure.”⁴⁵ ORS witness Garrett was qualified “as an expert on the fair rate of return for a regulated utility, including its cost of debt, return on equity, and capital structure, as well as customer financial protections known as ring-fencing.”⁴⁶ Because PWR is not publicly traded, the experts’ ROE testimonies consisted of analyses of proxy groups of water companies that do have publicly traded stock.⁴⁷

⁴¹ Rothschild Dir., p. 10, ll. 8-9; Tr. p. 194.10.

⁴² Rothschild Dir., p. 2, ll. 13-20; Tr. p. 194.2.

⁴³ *Id.* See also, Garrett Dir., p.10; Tr. p. 268.10 and Moul Dir., pp. 18-19; Tr. pp. 139.18-139.19.

⁴⁴ Rothschild Dir., p. 2, ll. 18-20; Tr. p. 194.2

⁴⁵ Tr. pp. 130-131, Tr. p. 178.

⁴⁶ Tr. p. 259.

⁴⁷ Moul and Garrett used the same group of eight companies. Rothschild used seven of the eight same companies but did not include Artesian Resources Corp because Value Line does not provide the necessary information he required (e.g., future expected return on book equity) for this company. (Rothschild Dir., p.40, ll.7-10, Tr. p. 194.40)

PWR witness Moul recommends an ROE for PWR of 10.95%.⁴⁸ Mr. Moul determined his ROE recommendation using his versions of the Discounted Cash Flow ("DCF") model, the Risk Premium ("RP") analysis, the Capital Asset Pricing Model ("CAPM"), and the Comparable Earnings ("CE") approach.⁴⁹ Mr. Moul also conducted a “fundamental risk analysis” by comparing PWR to the “S&P Public Utilities” and his proxy group.⁵⁰ Mr. Moul concluded PWR’s risk exceeds that of his proxy group due to its small size and lack of diversity.⁵¹ Mr. Moul claims it is necessary to add a size adjustment to his CAPM method in order to account for the risk differential and to add a leverage adjustment to his DCF result when the market-value and book-value capital structures are different.⁵² Applying the models to his proxy group, and adding a leverage adjustment of 0.97% to his DCF result and a size adjustment of 1.02% to his CAPM result, Mr. Moul produced COEs of 10.41% (DCF), 10.50% (RP), 12.05% (CAPM) and 12.80% (CE).⁵³

ORS witness Garrett’s “objective cost of equity analysis shows that PWR’s cost of equity is about 7.1% within a range of 6.3% to 8.0%.”⁵⁴ Mr. Garrett arrived at this conclusion by using DCF (8.0%) and CAPM (6.3%) analyses and averaging the results.⁵⁵ While his objective analyses determined a 7.1% COE, Mr. Garrett recommends an ROE of 8.9% for PWR due to what he coins “gradualism”.⁵⁶ Mr. Garrett states that his 8.9% recommended ROE “represents a gradual yet

⁴⁸ Moul Dir., p. 39, ll. 15-16; Tr. p. 139.39.

⁴⁹ Moul Dir., p.5, ll. 11-12; Tr. p. 139.5.

⁵⁰ Moul Dir., p. 6, ll. 6-21; Tr. p. 139.6.

⁵¹ Moul Dir., p. 11, ll. 10-14; Tr. p. 139.11.

⁵² Moul Dir., p. 23, ll. 7-15; Tr. p. 139.23.

⁵³ Moul Dir., p.5, ll. 11-12; Tr. p. 139.5. See also Moul Dir. Exhibit PRM-1 Schedule 1, p. 2; Hr’g Ex. 5, p. 50 of 74.

⁵⁴ Garrett Dir., p. 7, ll. 6-7; Tr. p. 268.7.

⁵⁵ Exhibit DJG-12; Hr’g Ex. 15, p. 113 of 118.

⁵⁶ Garrett Dir., p. 12, l. 5; Tr. p. 268.12.

meaningful move towards market-based cost of equity.”⁵⁷ Mr. Garrett provides no evidence as to why 8.9% is the most appropriate gradually-adjusted ROE, however. To the contrary, according to his testimony, an authorized ROE that is considerably higher than the market-based COE is not in the best interest of society. He explains that it would be better for society if authorized ROEs were more in line with the actual COE because, among other reasons, it would promote a more efficient allocation of capital.⁵⁸ Mr. Garrett’s testimony showed that ROEs for utilities have been “sticky”, remaining higher than the market-based COE, due to the reluctance of commissions to deviate from historical authorizations.⁵⁹ Mr. Garrett also explained how setting the ROE too high could result in an “inappropriate transfer of wealth” from consumers to investors and violate *Hope* and *Bluefield* standards.⁶⁰

DCA witness Rothschild recommends an ROE range of 6.13% to 7.70%, as well as a point within that range of 7.31%.⁶¹ Mr. Rothschild utilized a constant growth DCF, non-constant growth DCF, and eight variations of the CAPM methodologies to arrive at his recommendations.⁶² Mr. Rothschild chose his specific point of 7.31% instead of the midpoint of his range (6.92%) because he “believe[s] it is prudent to not be overly abrupt while bringing ROEs in line with the true market-based COE.”⁶³ Mr. Rothschild notes his recommendations are consistent with investor expectations and expected returns for the overall stock market.⁶⁴ Like Mr. Garrett, he also notes

⁵⁷ Garrett Dir., p. 7, ll. 15-16; Tr. p. 268.7.

⁵⁸ Garrett Dir., p. 23, ll. 2-13; Tr. p. 268.23.

⁵⁹ Garrett Dir., p. 23; Tr. p. 268.23; also, p. 19, ll. 8-9; Tr. p. 268.19. See also Tr. p. 284, l. 18 – p. 287, l. 6.

⁶⁰ Garrett Dir., pp. 17-18; Tr. pp. 268.17 – 268.18.

⁶¹ Rothschild Dir., p. 4, ll. 6-15; Tr. p. 194.4.

⁶² Mr. Rothschild does note “[t]o be conservative, [he] did not take into account the results of the Non-Constant Growth version of the DCF in arriving at [his] cost of equity recommendation because the results for several of the companies in [the] proxy group were below their cost of debt.” (Rothschild Dir., p.13, ll.17-20; Tr. p. 194.13)

⁶³ Rothschild Dir., p. 5, ll. 8-10; Tr. p. 194.5.

⁶⁴ Rothschild Dir., p. 5, ll. 16-20; Tr. p. 194.5

setting the ROE above market-based COE will lead to an “unjustified windfall” for PWR.⁶⁵ Mr. Rothschild concludes any authorized ROE within his recommended range would satisfy the requirements of Hope and Bluefield and would allow PWR to raise capital and provide safe and reliable service.⁶⁶

Hope and Bluefield establish that the rate of return for a utility must be market-based and reflect investor expectations for returns in companies of similar risk. Mr. Garrett and Mr. Rothschild agree with these concepts, but disagree on the ROE this Commission should authorize. Mr. Moul finds the other witnesses’ proposed returns are “too low to allow PWR to achieve the level of returns that meet investor expectations” and “would signal a disincentive for further investment in the Company.”⁶⁷ Mr. Sorensen submitted similar testimony.⁶⁸ Mr. Rothschild and Mr. Garrett refute these statements and agree that the market-based COE for PWR is significantly lower than the COE claimed by Mr. Moul. Despite generally agreeing on the market-based COE, Rothschild’s and Garrett’s authorized ROE recommendations are significantly different. For the reasons discussed below, the Commission finds the appropriate ROE for PWR is 7.31%, as recommended by Mr. Rothschild.

2. Return on Equity Standards

In Bluefield, the Supreme Court of the United States provided standards for determining an appropriate rate of return, and reaffirmed those standards in Hope. These decisions hold that (1) a regulated public utility is entitled to an opportunity to earn a return on its investments that is equal to that being made at the same time and in the same general part of the country on other

⁶⁵ Rothschild Dir., p. 8, ll. 3-5; Tr. p. 194.8.

⁶⁶ Rothschild Dir., p.103, ll. 9 - 14; Tr. p. 194.103.

⁶⁷ Moul Reb., p. 4, ll. 13-17; Tr. p. 141.4.

⁶⁸ Sorensen Reb., p. 5, ll. 1-4; Tr. p. 75.5.

investments in business undertakings with similar risks and uncertainties; (2) the return should be such as to assure confidence in the financial soundness of the utility and adequate, under efficient and economic management, to maintain and support its credit and enable it to raise money necessary for proper discharge of its duties; and (3) the utility has no entitlement to the kinds of profits that may be realized in highly profitable enterprises. In Bluefield, the court also noted a “return may be reasonable at one time and become too high or too low by changes” in market conditions. Bluefield, 262 U.S. at 693.

The South Carolina Supreme Court has further elucidated these standards, finding the Commission must balance the interests of consumers with that of the utility in setting the rate of return. The Commission must allow the Company the opportunity to earn a reasonable return, as well as protect consumers from excessive rates that are unjust or unreasonable. S. Bell Tel. & Tel. Co. v. Pub. Serv. Comm’n, 270 S.C. at 605, 244 S.E.2d at 286 (1978) (Ness, J., concurring and dissenting). The Commission’s determination of a fair rate of return “must be based exclusively on *reliable, probative, and substantial* evidence on the whole record.” Porter v. S.C. Pub. Serv. Comm’n, 332 S.C. 93, 98, 504 S.E.2d 320, 323 (1998) citing S.C. Code Ann. §58-5-240 (*emphasis added*). It cannot be based on surmise, conjecture or speculation. Herndon v. Morgan Mills, Inc., 246 S.C. 201, 209, 143 S.E.2d 376, 380 (1965). “In determining the appropriate cost of Common Equity the Commission must weigh the testimonies of qualified experts and exercise its collective judgment...” S. Bell, 270 S.C. at 590. Under these standards, the Commission carefully evaluates the evidence presented by the parties, and determines what ROE the utility should be given the opportunity to earn.

3. Rothschild's and Garrett's Methodologies and Recommendations

While Mr. Rothschild and Mr. Garrett disagreed on the ROE this Commission should authorize, their analyses showed a consistency of outcomes regarding PWR's COE, and each presented substantial testimony and evidence to aid the Commission in making a determination on this issue. The results of Mr. Garrett's and Mr. Rothschild's cost of equity models (i.e., DCF and CAPM) produce similar results despite having some different characteristics. For example, Mr. Garrett does not use the sustainable growth form of the Constant Growth DCF model as used by Mr. Rothschild. However, independently, Mr. Garrett concluded that a long-term growth rate of 6.3% was reasonable.⁶⁹ This growth rate is almost identical to the long-term growth rates (6.27% and 6.53%) produced by Mr. Rothschild's calculations.⁷⁰ Additionally, Mr. Rothschild's DCF results range between 8.05% and 8.15%, while Mr. Garrett's DCF model cost of equity estimate is 8.0%.

Regarding the CAPM, Mr. Garrett's and Mr. Rothschild's methodologies are different in just about every way except for some overlap with the risk-free rate component. Both use a risk-free rate based on the market yield of U.S. Treasuries.⁷¹ Mr. Rothschild and Mr. Garrett explain that it is not appropriate to use forecasted interest rates as the risk-free rate component of the CAPM, as Mr. Moul has done.⁷² The equity risk premium and beta portions of Mr. Rothschild's CAPM are based on an analysis of stock option data, which measures investor expectations directly. Mr. Rothschild also incorporates historical betas based on a regression analysis. The equity risk premium portion of Mr. Garrett's CAPM is based on expert surveys and the implied

⁶⁹ Garrett Dir., p. 45, ll. 1-2; Tr. p. 268.45.

⁷⁰ Rothschild Dir. Exhibit ALR-3, page 1; Hr'g Ex. 7, p. 9 of 24.

⁷¹ Rothschild Dir., p. 56, ll. 12-20 Tr. p. 194.56. Garrett Dir., p. 50, ll. 3-5; Tr. p. 268.50.

⁷² Rothschild Dir., pp 58-60; Tr. pp. 194.58 – 194.60. Garrett Dir., pp. 65-66; Tr. pp. 268.65 - 268.66.

equity risk premium as indicated by the current value of all stocks (the index price), and the projected value of future cash flows.⁷³ Despite these differences, Mr. Rothschild's CAPM results range between 6.04% and 7.25%⁷⁴ and Mr. Garrett's CAPM is 6.3%.⁷⁵ The fact that each expert obtained similar results, despite these modeling differences, gives the Commission confidence that the results are reasonable, reliable, and in line with the true cost of equity.

While we find Mr. Garrett's COE range reasonable and reliable because it is supported by his analysis, we are concerned his 8.9% ROE recommendation is unsupported. The primary basis for his recommendation is the finding in Hope that "[u]nder the statutory standard of 'just and reasonable' it is the result reached not the method employed which is controlling."⁷⁶ He also speculates that "a significant, sudden change" in ROE "could" increase the Company's risk profile which he claims "could" contravene the findings in Hope.⁷⁷ Otherwise, Mr. Garrett is unable to provide adequate justification for his specific 8.9% recommendation. Under cross examination he was not able to explain how he determined the 8.9% recommendation or whether another ROE would meet his concept of gradualism. When asked how he reached his particular recommendation, instead of another such as 8.2% or 9.2% he stated it was "not directly tied to the result of a specific model, but just based on [his] judgment."⁷⁸

While Mr. Garrett did not justify his specific ROE, he did note his 6.3 to 8.0% COE was "accurate from a technical standpoint".⁷⁹ Further, his testimony shows his COE is just and

⁷³ Garrett Dir., p.56; Tr. p. 268.56.

⁷⁴ Rothschild Dir., p. 16, Table 5; Tr. p. 194.16.

⁷⁵ Garrett Dir., p. 58, l. 7; Tr. p. 268.58.

⁷⁶ Garrett Dir. pp. 11-12; Tr. pp 268.11-268.12.

⁷⁷ Garrett Dir., p. 12, ll. 14-17; Tr. p. 268.12.

⁷⁸ Tr. p. 290, ll. 10-12. Mr. Garrett responded similarly when questioned by the Commission regarding his opinion that "it is not appropriate to use an awarded ROE significantly above a regulated utility's cost of equity." Tr. p. 319, l. 22 – p. 321, l. 12.

⁷⁹ Tr. p. 291, ll. 7-17.

reasonable and that an ROE “in the low sevens” would meet the standards of *Hope* and *Bluefield*.⁸⁰ He provides considerable testimony, based both on his own experience and the findings of others, that authorized ROEs must be market-based and below the market cost of equity.⁸¹ Otherwise, he finds “an inappropriate transfer of wealth from ratepayers to shareholders” will result.⁸²

Mr. Garrett finds “the cost of capital should be evaluated objectively and be closely tied to economic realities, such as stock prices, dividends, growth rates, and, most importantly, risk.”⁸³ Notably, he finds the cost of equity “ceiling” for low-risk stocks is 7.5% by adding the risk-free rate to the equity risk premium.⁸⁴ He repeatedly confirms that regulated utilities are less risky than competitive industries,⁸⁵ yet continue to be granted ROEs higher than the market-based COE.⁸⁶ Mr. Garrett shows that authorized ROEs have not declined as much as the market-based COE since 1990. He also shows other wall street analysts, utility finance experts, and research papers support these findings and confirm the overall stock market expected returns are around 7%.⁸⁷

Mr. Garret notes *Hope* and *Bluefield* do not mandate that the ROE equal the COE; however, he finds “[w]hen the authorized ROE is set far above the cost of equity, it runs the risk of violating

⁸⁰ Tr. p. 289.

⁸¹ See Garrett Dir., pp. 18-24; Tr. pp. 268.18-268.24. For example, “Thus, awarded returns (the solid line) should generally be below the market cost of equity (the dotted line), since awarded returns are supposed to be based on true cost of equity.” (Garrett Dir., p. 19, l. 19 – p. 20, l. 2; Tr. pp. 268.19-268.20). “Again, the cost of equity for a regulated utility, including water utilities, should be below the market cost of equity.” (Garrett Dir., p. 22, ll. 2-3; Tr. p. 268.22).

⁸² Garrett Dir., p. 17, ll. 10-13.; Tr. p. 268.17. Also citing Roger A. Morin, *New Regulatory Finance* 23–24 (Public Utilities Reports, Inc. 2006) (1994) (“[I]f the allowed rate of return is greater than the cost of capital, capital investments are undertaken and investors’ opportunity costs are more than achieved. Any excess earnings over and above those required to service debt capital accrue to the equity holders, and the stock price increases. In this case, the wealth transfer occurs from ratepayers to shareholders.”). See also, Garrett Dir., p. 23, ll. 2-13; Tr. p. 268.23.

⁸³ Garrett Dir., p. 18, ll. 1-3; Tr. p. 268.18.

⁸⁴ Garrett Dir., p. 14, ll. 5-8; Tr. p. 268.14.

⁸⁵ Fr example, Garrett Dir, p. 19, ll. 9-11 and 17-19; p.21, ll.2-3; p. 22, ll. 10-12; p. 23, l. 23. Tr. pp. 268.19, 268.21, 268.22, and 268.23.

⁸⁶ Garrett Dir., pp. 19-20. Tr. pp. 268.19-268.20

⁸⁷ Garrett Dir., pp. 22-23; Tr. pp. 268.22-268.23.

the U.S. Supreme Court’s standards.”⁸⁸ Alternatively, he states “[i]n my opinion, when awarded ROEs for utilities are below the market cost of equity, regulators more closely conform to the standards set forth by Hope and Bluefield.”⁸⁹ We agree. We also agree with Mr. Garrett that “it is not appropriate to use an awarded ROE significantly above a regulated utility’s cost of equity.”⁹⁰

4. Rothschild’s and Garrett’s Criticisms of Moul

Mr. Garrett and Mr. Rothschild use data up to September 1, 2021 and August 31, 2021, respectively.⁹¹ Rothschild criticizes Moul’s dataset as not up to date and we agree. Despite Mr. Moul’s recommendation that the Commission consider the future trend in capital cost rates,⁹² he does not use the most current market data (e.g., stock prices, interest rates). His analysis only includes data up to April 30, 2021, despite filing his testimony on September 2, 2021. Mr. Rothschild stated “[t]his is particularly concerning because water utility stock prices have significantly increased over that time period (up 25.9% in the six month period of March through August 2021) indicating a lower cost of equity.”⁹³ Rothschild further shows the proxy group water utility stocks outperformed the overall market during that time, indicating the cost of equity has likely been decreasing.⁹⁴ Therefore, we find Mr. Moul’s recommendation is unreliable because, among other reasons, it is based on out-of-date information.

We further agree with Mr. Rothschild and Mr. Garrett that Mr. Moul’s 0.97% leverage adjustment is not appropriate.⁹⁵ Mr. Moul has proposed a leverage adjustment of 0.97% to his

⁸⁸ Garrett Dir., p. 18, ll. 11-14; Tr. p. 268.18.

⁸⁹ Garrett Dir., p. 20, ll. 7-8; Tr. p. 268.20. He also states the following: “The U.S. Supreme Court in Hope makes it clear that the allowed return should be based on the actual cost of capital.” Garrett Dir., p. 16, ll. 14-15; Tr. p. 268.16.

⁹⁰ Garrett Dir., p.7, ll.10-12; Tr. p. 268.7.

⁹¹ Rothschild Dir., Exhibit ALR-3, p. 1; Hr’g Ex. 7, p. 9. Garrett Dir., Exhibit DJG-3; Hr’g Ex. 15, p. 104 of 118.

⁹² Moul Reb., p. 6, ll. 15-17; Tr. p. 141.6.

⁹³ Rothschild Dir., p. 6, l.13 – p. 7, l.3; Tr. p. 194.6-194.7.

⁹⁴ Rothschild Dir., p.17, ll. 4-6; Tr. p. 194.17.

⁹⁵ Rothschild Dir., p. 7, ll. 9-11; Tr. p. 194.7, Garrett Dir., p. 14-15; Tr. p. 268.14-268.15.

DCF derived cost of equity, stating “[i]n order to make the DCF results relevant to the capitalization measured at book value (as is done for rate setting purposes), the market-derived cost rate must be adjusted to account for the difference in financial risk.”⁹⁶ He claims that “[b]ecause the rate-setting process uses ratios calculated from a firm’s book value capitalization, further analysis is required to synchronize the financial risk of the book capitalization with the required return on the book value of the firm’s equity.”⁹⁷ Mr. Rothschild explains that investors understand that authorized ROEs are applied to book value and Mr. Moul’s proposed leverage adjustment implies that investors do not know how regulation works. He notes investors decide how much they are willing to pay for a stock based on the earnings and dividends they expect to receive.⁹⁸ Mr. Garrett finds that applying the Hamada formula used by Mr. Moul to calculate his leverage adjustment “can be a valuable exercise in certain applications”, but “Mr. Moul distorts this process in an attempt to justify adding nearly 100 basis points to his DCF cost of equity estimate.”⁹⁹ Based on these testimonies, we find the result of a DCF analysis does not need to be adjusted to account for the regulatory process.

We also agree with Mr. Rothschild and Mr. Garrett that Mr. Moul’s 1.02% size adjustment is not appropriate.¹⁰⁰ PWR is considerably smaller than the average size of the publicly traded water companies in the proxy groups used by all three rate of return witnesses.¹⁰¹ Mr. Moul claims, “all other things being equal, a smaller company is riskier than a larger company because a given change in revenue and expense has a proportionately greater impact on a small firm.”¹⁰² Mr. Moul

⁹⁶ Moul Dir., p. 23, ll. 17-19; Tr. p. 139.23.

⁹⁷ Moul Dir., p. 24, ll. 7-10; Tr. p. 139.24.

⁹⁸ Rothschild Dir., pp. 94-96; Tr. pp. 194.94-194.96.

⁹⁹ Garrett Dir., pp. 47-48; Tr. pp. 268.47-268.48.

¹⁰⁰ Rothschild Dir., p. 7, ll. 9-11; Tr. p. 194.7, Garrett Dir., pp. 14-15; Tr. pp. 268.14-268.15.

¹⁰¹ Moul Dir., p. 7, ll. 21-23; Tr. p. 139.7.

¹⁰² Moul Dir., pp. 7-8; Tr. pp. 139.7-139.8.

states that technical literature from the 1980s and 1990s supports his claim that PWR’s COE should be increased by 1.02% because it is smaller than the water companies in his Water Group.¹⁰³

Mr. Moul uses data from the 2017 SBBI Yearbook to calculate his recommended 1.02% size premium.¹⁰⁴ Mr. Rothschild counters Moul’s literature, noting the 2021 SBBI Yearbook states the following regarding the theory that investors require higher returns to invest in smaller firms:

The size effect is not without controversy, nor is this controversy something new. Traditionally, small companies are believed to have greater required rates of return than large companies because smaller companies are inherently riskier. It is not clear, however, whether this is due to size itself, or to other factors closely related to or correlated with size...¹⁰⁵

Rothschild also notes a 2018 study conducted by scholars at AQR Capital Management and Yale University found that “the size effect diminished shortly after its discovery and publication.”¹⁰⁶ This study found that data errors plagued early studies and did not include delisted companies, concluding the biased data (referred as a “delisting bias”) made the returns of smaller stocks look higher than reality.¹⁰⁷ Mr. Garrett makes a similar assessment of the size adjustment used by Mr. Moul.¹⁰⁸

In light of this recent data, Mr. Moul’s conclusion that smaller firms require a higher COE is not supported by the evidence. Additionally, testimony shows that PWR is owned by a much larger company, SWWC, with financial backing from the Infrastructure Investments Fund.¹⁰⁹

¹⁰³ Moul Dir., pp. 35-36; Tr. pp. 139.35-139.36.

¹⁰⁴ Moul Dir. p. 35, l. 13 – p. 36, l. 3; Tr. pp. 139.35-139.36; See also Moul Dir. Exhibit PRM-1, Schedule 13, p. 3; Hr’g Ex. 5, p. 71 of 74.

¹⁰⁵ Ibbotson SBBI® 2021 Classic Yearbook, page 7-2. Also see, Rothschild Dir., p. 98, ll. 8-15; Tr. p. 194.98.

¹⁰⁶ Rothschild Dir., p. 99, ll. 3-5; Tr. p.194.99.

¹⁰⁷ *Id.* at ll. 5-9.

¹⁰⁸ Garrett Dir., pp. 62-64, Tr. pp. 268.62-268.64.

¹⁰⁹ Tr. p. 92, ll.1-2. Mr. Sorensen testified this fund is “the shareholder” of PWR. Mr. Sorensen also indicated the

Therefore, we find a size adjustment is not appropriate and PWR's consumers should not be charged higher rates because of its size.

5. PWR's Response to Rothschild and Garrett

PWR argues the ROEs proposed by Mr. Rothschild and Mr. Garrett are too low for four primary reasons: a) its inability to raise capital with a low ROE; b) analytical differences among the experts; c) recently authorized ROEs; and d) its good performance. We address each of these issues below and find neither Mr. Moul's nor Mr. Sorensen's testimony provide compelling evidence to support their criticisms.

a. Inability to Raise Capital is Unfounded

As an engineer and president of SWWC's business in Alabama, Florida, and South Carolina, as well as PWR, Mr. Sorensen is certainly qualified to discuss the Companies' operations and expenses. However, he was not qualified as a rate of return expert like the other witnesses in this matter. Furthermore, the only "evidence" he presented to support his opinions regarding the appropriate rate of return was that other companies have been authorized higher ROEs and therefore, PWR would be disadvantaged. A witness's opinion is of no probative value if "there is no evidentiary showing of the facts upon which the opinion is predicated." Parker v. South Carolina Public Service Com., 281 S.C. 215, 217, 314 S.E.2d, 597, 599 (1984).

Mr. Sorensen's opinion was also thoroughly refuted by Mr. Rothschild¹¹⁰ and Mr. Garrett.¹¹¹ Mr. Rothschild provided examples of recent authorized and proposed returns under

Infrastructure Investments Fund is advised by J.P. Morgan. Tr. p. 94, ll. 23-24. Mr. Moul was also aware the Infrastructure Investments Fund is an investor in SWWC. Tr. p. 146, l. 18 – p.147, l. 7.

¹¹⁰ Rothschild Surr., p. 18, l. 4 – page 19, l. 11; Tr. pp. 196.18-196.19.

¹¹¹ Garrett Surr., p. 14 ll. 3-6; Tr. p. 272.14.

8%, including two financially healthy electric utilities in Illinois - 7.36% for Ameren Illinois and ComEd. When asked on cross-examination whether Ameren Illinois and ComEd are able to raise capital, Mr. Moul replied he thought they could and that he had “not heard they have any difficulty in that regard.”¹¹²

Mr. Garrett’s testimony establishes that the average authorized ROEs for regulated electric and gas utilities is approximately 9.5%.¹¹³ The fact that Ameren Illinois and ComEd remain financially healthy (e.g., investment grade credit rating) with authorized ROEs of 7.36%¹¹⁴ that are significantly lower than this average indicates that the market-based COE is lower than the average authorized ROEs. If the market-based COE for electric and gas utilities was significantly higher than 7.36%, Ameren Illinois and ComEd would likely not be able to maintain an investment grade credit rating and their parent companies’ market capitalizations would suffer.¹¹⁵ This is not the case. We understand that Ameren Illinois’ and ComEd’s rates are set based on formula ROEs and therefore may not be completely comparable to other jurisdictions that do not use “formula rates”, including South Carolina. However, the fact that a recent survey showed that the 50th percentile of equity return expectations of major financial institutions is 6.9% for the overall market indicates that a 7.31% ROE for a regulated utility company is more than sufficient for them to raise the capital needed to provide safe and reliable service.¹¹⁶

¹¹² Tr. p. 145, ll. 14-18. Mr. Moul was also not surprised that Ameren Illinois raised \$350 million in debt offered in June 2021. Tr. p. 145, ll. 19-22.

¹¹³ Garrett Dir. p. 20, Figure 2; Tr. p. 268.20.

¹¹⁴ Rothschild Dir., p. 8, ll. 15-20 and FN 9 and FN 10; Tr. p. 194.8.

¹¹⁵ Rothschild Surr. p. 16, l. 3 – p. 19, l. 11; Tr. pp. 196.16-196.19.

¹¹⁶ Rothschild Dir., p. 6, Table 2. Horizon Actuarial Services, LLC, Survey of Capital Market Assumptions Survey, August 2021, page 17. Survey participants Include: Bank of New York Mellon, BlackRock, Goldman Sachs Asset Management, J.P. Morgan Asset Management, Merrill, Morgan Stanley Wealth Management, Royal Bank of Canada, UBS. Tr. p. 194.6.

Mr. Sorensen's rebuttal testimony also shows one of PWR's affiliates, Ni Florida, Inc., has an authorized ROE range with a low end of 7.85%.¹¹⁷ Notably, Mr. Sorensen testified that all of PWR's capital comes from its parent company, SWWC.¹¹⁸ He also stated the Infrastructure Investments Fund is "the shareholder of [SWWC]."¹¹⁹ Mr. Sorensen testified during the hearing to the ROEs granted to each of PWR's affiliates, afterward stating "if the Commission were to ...award [PWR] a lower ROE than we were granted in our other jurisdictions, it would put [PWR] at a distinct disadvantage in attracting the capital necessary to operate, maintain, improve, [and] expand[] its system."¹²⁰ The Commission is troubled by statements that the Company is competing with its affiliates for capital from its parent company. Regulated utilities have an obligation to serve all of their customers and to provide them safe and reliable service.¹²¹ SWWC accepted this obligation when it began acquiring companies in South Carolina and we expect it to honor those obligations. PWR will recover its prudently incurred costs in providing that service. The authorized ROE will impact the return on the investment, but it will not impact rate base or the recoverability of operating expenses. We acknowledge the Commission also has an obligation to provide the Company and its investors with an opportunity to earn a reasonable return. The

¹¹⁷ Sorensen Reb., p. 4. Tr. p. 75.4.

¹¹⁸ Tr. p. 88, ll. 13-20.

¹¹⁹ Tr. p. 92, ll. 1-2. Mr. Sorensen also indicated the Infrastructure Investments Fund is advised by J.P. Morgan. Tr. p. 94, ll. 23-24.

¹²⁰ Tr. p. 70, ll. 7-16.

¹²¹ See S.C. Code Ann. Reg 103-540 System Which Utility Must Maintain: "Each utility, unless specifically relieved in any case by the commission from such obligation, shall operate and maintain in safe, efficient and proper conditions of all of its facilities and equipment used in connection with the services it provides to any customer up to and including the point of delivery from systems or facilities owned by the customer.

See also, 103-570 Quality of Service: "B. It shall be the obligation of each utility dependent upon its ability to procure and retain suitable facilities and rights for the construction and maintenance of the necessary system to furnish adequate sewerage service to customers in the area or territory in which it operates. Such service is to be rendered according to lawfully established and approved rates and charges for the specific territory involved."

evidence in this matter shows an ROE of 7.31% is “reasonably sufficient” and “adequate” to satisfy Hope and Bluefield.

b. Analytical Concerns Refuted by Market Data

Mr. Moul claims Mr. Garrett’s and Mr. Rothschild’s proposed ROEs do not “fit the trend in capital costs on a prospective basis” because they do not reflect higher capital costs.¹²² We are not persuaded by this claim. The cost of equity model results of Mr. Garrett and Mr. Rothschild reflect capital costs on a prospective basis.¹²³ Both use current capital market data in their cost of equity models, including stock prices and the current market yield of U.S. Treasury Bonds. Mr. Moul claims the current market yields on governments bonds are “backward-looking” and interest rate forecasts are required.¹²⁴ However, the interest rate forecasts proposed by Mr. Moul are not reliable for determining PWR's authorized ROE for at least two reasons. First, they have been persistently inaccurate.¹²⁵ Second, we agree with Mr. Rothschild that current market data provides a direct observation of investor expectations, including what investors expect interest rates will be in the future.¹²⁶ There simply is no need for "expert" forecasts when investors' expectations can be measured directly.

Mr. Moul also claims the current level of the Market Volatility Index (VIX) “warrants a higher equity return at this time because the higher stock market volatility signifies higher risk that requires higher returns on compensation for the higher risk.”¹²⁷ Mr. Rothschild confirms Mr. Moul is correct that investors’ volatility expectations as measured by the VIX increased significantly

¹²² Moul Reb., p. 5, l. 22 – p. 7, l. 9; Tr. pp. 141.5-141.7.

¹²³ See Section VI.C.3, *supra*.

¹²⁴ Moul Reb., p. 6, ll. 17-19; Tr. p. 141.6.

¹²⁵ Rothschild Dir., p. 58, l. 5 – p. 60, l. 2; Tr. pp. 194.58-194.60.

¹²⁶ Rothschild Dir., p. 58, ll. 18-21; Tr. p. 194.58

¹²⁷ Moul Reb., p. 8, ll. 13-15; Tr. p. 141.8.

during the pandemic and remain somewhat elevated when compared to pre-pandemic levels. However, the cost of equity cannot be calculated from volatility expectations alone. Other factors indicate that the cost of equity for water companies is lower than before the pandemic. Mr. Rothschild showed that option-implied betas for water utility stocks have decreased to levels below those before the pandemic (0.69 on August 31, 2021 vs. 0.79 on December 31, 2019).¹²⁸ This indicates investors expect water utility stock price movements to be less correlated with the overall market than before the pandemic and therefore to be less risky relative to the market.

The testimony of Mr. Garrett establishes that authorized ROEs for regulated utility companies have been declining nationally, but the market-based cost of equity has been declining faster.¹²⁹ The testimonies of Mr. Rothschild and Mr. Garrett explain that the equity return expectations of major brokerage houses, financial institutions and consulting firms indicate PWR's market-based COE is significantly less than the 10.95% requested by the Company.¹³⁰ For example, Duff & Phelps, a respected source regularly relied upon by rate of return witnesses, including Mr. Moul, published a cost of equity of 8% for the overall market.¹³¹ A recent survey indicates that banks and pension funds expect a return on equity investments over the next 20 years of between 4.6% and 8.9%, with a 50th percentile of 6.9%.¹³² PWR is less risky than the market as a whole; therefore, its cost of equity is certainly less than these return expectations.¹³³

¹²⁸ Rothschild Dir., pp. 17-19; Tr. pp. 194.17-194.19. Rothschild Dir., p. 33 l. 15 – p. 34, l. 7; Tr. pp. 194.33-194.34.

¹²⁹ Garrett Dir., pp.19-22; Tr. pp. 268.19-268.22.

¹³⁰ Rothschild Dir., pp. 5-6; Tr. pp. 194.5-194.6. Garrett Dir., pp. 19-22 and pp.56-57; Tr. pp. 268.19-268.22 and 268.56-268.57.

¹³¹ Rothschild Dir., p. 6, Table 2; Tr. p. 194.6.

¹³² Rothschild Dir., pp. 5-6; Tr. pp. 194.5-194.6.

¹³³ Rothschild Dir., pp. 5-6; Tr. pp. 194.5-194.6. Garrett Dir., pp.19-22 and 31-34; Tr. pp. 268.19-268.22 and 268.31-268.34.

c. Other Authorized ROEs are Not Precedent Setting

The Company argues the Commission's past ROE authorizations for an applicant, or another utility, are precedent in the current case.¹³⁴ We disagree as those ROEs do not reflect the cost of equity at this time. The testimony in this matter provides current investor expectations regarding returns.

The ROEs cited by the Company are based on past testimonies and therefore are not necessarily representative of current capital market conditions.¹³⁵ The Company notes the higher ROEs authorized for one of its affiliates, Palmetto Utilities, Inc. ("PUI"), as well as Dominion Energy South Carolina; however, those applications were filed in December 2019 and August 2020, respectively. The data provided in those cases included COVID's significant impact on the economy and appropriately reflected increased market volatility, uncertainty, and risk.¹³⁶ Furthermore, DESC is an electric and gas company, whose risks and uncertainties do not correspond with those of PWR. Notably, in the current case, all of the experts used water companies in their proxy groups, and none used electric utilities. Additionally, the PUI and Dominion awarded ROEs were the results of settlements. Therefore, their ROEs cannot be singled out as precedent for other cases because settlement negotiations involve compromises on individual issues that cannot be compared to other cases in isolation.

¹³⁴ Some of these cases are addressed in the Surrebuttal Testimonies of Mr. Garrett at pp.10-13 and Mr. Rothschild at pp.16-18. Parts of their testimonies address Rebuttal Testimony of PWR witness Sorensen that was later withdrawn in his Corrected Rebuttal Testimony. PWR also raised this Commission's rulings in the Dominion Energy South Carolina case (Docket No. 2020-125-E) during cross examination. Tr. pp. 219-220 and 310-314.

¹³⁵ As noted by Mr. Rothschilds, "[e]ven if it were assumed that all historical authorized ROEs of wastewater or water utility companies in other jurisdictions are based on accurate market-based cost of equity calculations, they are from the past. The cost of equity should be based on current market conditions." Rothschild Dir., p. 10, ll. 5-9; Tr. p. 194.10.

¹³⁶ At the request of PUI, its rate case was stayed for 60 days due to the COVID-19 pandemic. Order No. 2020-259. Therefore, DCA and ORS direct testimony was not filed until May 26, 2020.

If the Commission were to look at prior matters, however, the market conditions present at the time of Blue Granite Water Company's 2019 application would be most comparable. PWR's application was filed in June 2021 when COVID's impacts on capital markets had greatly reduced. The data presented in the Blue Granite case, which was filed in October 2019, was from a pre-COVID economy and may more closely resemble current market data from a recovering economy than the other decisions the Company cites which include eight cases from August 2020 to January 2021.¹³⁷

Even if these past ROEs set precedent for the current matter, the Commission is not bound to follow them. *S. Bell Tel. & Tel. Co. v. Pub. Serv. Comm'n*, 270 S.C. 590, 610, 244 S.E.2d 278, 288 (1978) (Ness, J., concurring in part and dissenting in part) (noting the Commission is "not bound by its prior decisions, and it may re-examine and alter its previous findings as to reasonableness when conditions warrant"); *See also*, 73A C.J.S. *Public Administrative Law and Procedure* § 352 (June 2021 Update) (agencies are not bound by past precedent and may reevaluate past decisions if there is a rational justification). While the Commission, as an administrative agency, "is generally not bound by the principle of *stare decisis*[,] it cannot act arbitrarily in failing to follow established precedent" and should cite distinguishing factors. *330 Concord St. Neighborhood Ass'n v. Campsen*, 309 S.C. 514, 517–18, 424 S.E.2d 538, 539–40 (Ct App. 1992). In this matter, there is substantial evidence in the record to show the current cost of equity supports an ROE in the range of 6.13 to 8.0%.

¹³⁷ See FN 134.

d. Past Performance Does Not Justify an ROE Above the COE

PWR argues its “exceptional performance” entitles it to a higher ROE than other utilities.¹³⁸ In particular, during cross examination, PWR focused on our decision in the 2019 Blue Granite rate case, indicating it would be punitive to award PWR an ROE lower than 7.46%, which was set in part as an incentive for Blue Granite to improve performance.

As already noted, our prior ROE authorizations, particularly those based on market data that is not current, are not precedent setting. Further, as indicated by the South Carolina Supreme Court, “a utility's business practices and reputation are two of a number of factors the PSC may consider in selecting an appropriate ROE.”¹³⁹ While we did consider the poor performance of Blue Granite, we also considered the market-based cost of equity findings of the experts who testified. Many of the factors considered in the Blue Granite matter also apply here and are supported by the testimonies of Mr. Garrett and Mr. Rothschild, including: “the ROEs and overall rate increases allowed to other similarly-sized utilities in the same general time frame”; “the ROEs expected by investors in the overall (i.e., riskier) stock market”; “the apparent lack of a need to artificially inflate the ROE of relatively-smaller utilities”; “the overall decreased cost of equity for utility companies”; and a “decline in investor expectations of equity returns and risk premiums.”¹⁴⁰

Mr. Garrett testified that the market-based cost of equity should be the most important factor and performance, “extremely low compared to cost of equity.”¹⁴¹ He also testified that awarded ROE averages and ROEs granted in other jurisdictions should be given much less weight

¹³⁸ Sorensen Reb., p. 8, ll. 5-6; Tr. p. 75.8. Also, Tr. p. 86, ll. 8-19.

¹³⁹ *In re Blue Granite Water Co. for Approval to Adjust Rate Schedules & Increase Rates*, 862 S.E.2d 887, 893-894 (S.C. 2021).

¹⁴⁰ *Id.*, at n. 6.

¹⁴¹ Tr. p. 323, ll. 5-15.

than the COE estimates provided by experts.¹⁴² In this case, when other factors support an ROE between 6.13 and 8.0%, we agree. Further, we decline to reward utilities for meeting their obligations to provide quality service by artificially inflating their ROEs.¹⁴³

6. ROE Conclusions

As we have often stated, “[i]t is the responsibility, duty and delegated charge granted by the Legislature for the Commission to weigh the evidence and to draw the conclusion therefrom as to what return is necessary to enable a utility to attract capital.”¹⁴⁴ Each of the three ROE witnesses provided their opinions regarding the appropriate COE and ROE for PWR. However, an expert’s opinion must be based upon facts and “[t]he probative value of expert testimony stands or falls upon an evidentiary showing of the facts upon which the opinion is, or must logically be, predicated,” otherwise it lacks probative value. *Young v. Tide Craft, Inc.*, 270 S.C. 453, 468, 242 S.E.2d 671, 678 (1978). Based on the testimony and evidence presented, we find the testimony of Mr. Rothschild and Mr. Garrett more reliable and credible than that of Mr. Moul.

Mr. Rothschild’s and Mr. Garrett’s objective analyses more accurately reflect PWR’s cost of equity. Notably, the two witnesses independently came to a similar range for the cost of equity. In comparison with Mr. Moul, we find their models more credible due to the absence of artificial and unsupported adjustments. In particular, Mr. Rothschild’s detailed testimony regarding his use of both historical and forward-looking market-based data provided the most comprehensive and

¹⁴² Tr. p. 302, l. 24 – p. 303, l. 3.

¹⁴³ Mr. Garrett also expressed his opinion on this issue. “...a company performing prudently, I would think is more just the status quo. I don’t know why it should get some kind of extra award and that award coming from ratepayers’ pockets, by the way. I don’t see exactly how that translates.” Tr. p. 323, ll.17-22.

¹⁴⁴ Order 2020-306, p. 36. Citing *S. Bell Tel. & Tel. Co. v. Pub. Serv. Comm’n*, 270 S.C. 590, 597, 244 S.E.2d 278, 282 (1978); holding modified by *Parker v. S.C. Pub. Serv. Comm’n*, 280 S.C. 310, 313 S.E.2d 290 (1984). (internal quotations omitted).

transparent analysis of the cost of equity.¹⁴⁵ Mr. Rothschild and Mr. Garrett thoroughly rebutted Mr. Moul's testimony and refuted any criticisms he made of their methods.¹⁴⁶ Mr. Moul was unable to credibly refute criticisms of his testimony.

The evidence presented clearly establishes that Mr. Moul's recommendation of 10.95% is too high and an ROE within the ranges presented by Mr. Rothschild and Mr. Garrett, 6.13% to 8.0%, is more appropriate. We find the evidence in the record unsubstantial to support an authorized ROE that is not within this range. Due to the lack of justification, the Commission is concerned that any ROE above 8.0% would be considered arbitrary and not supported by substantial evidence. On the other hand, we are confident, based on the substantial testimony and reliable evidence presented, that an ROE between 6.13% and 8.0%, and specifically an ROE of 7.31%, would be market-based and meet investors' expectations, as well as the requirements of Hope and Bluefield.

Mr. Garrett's testimony showed that authorized ROEs for utilities have been "sticky", remaining higher than the market-based COE since 1990.¹⁴⁷ Mr. Garrett attributed this stickiness to commissions' 1) reliance on average awarded ROEs around the country; 2) failure to adapt to true market conditions; and 3) reluctance to deviate from the status quo.¹⁴⁸ If regulatory commissions are fulfilling the legal standards articulated in Hope and Bluefield, we would expect to see authorized ROEs in line with the market-based COE.

¹⁴⁵ Rothschild Dir., pp. 35-84; Tr. pp. 194.35-194.84.

¹⁴⁶ Rothschild Dir., pp. 85-103 and Surr. pp. 3-20; Tr. pp. 194.85-194.103 and 196.3-196.20. Garrett Dir. pp. 46-48, 59-68 and Surr. pp. 3-15; Tr. pp. 268.46-268.48, 268.59-268.68, and 272.3-272.15.

¹⁴⁷ Garrett Dir., p. 23, ll. 14-17; Tr. p. 268.23; also, p. 19, ll. 8-9; Tr. p. 268.19.

¹⁴⁸ Garrett Dir., p. 23, l.17 – p. 24, l.3; Tr. pp. 268.23-268.24.

Both Mr. Rothschild and Mr. Garrett agreed the authorized ROE must be in line with the market cost of equity and investor expectations. Both agreed that many authorized ROEs do not meet these two criteria and that it is prudent to not be overly abrupt when doing so. However, Mr. Rothschild is the only witness whose final ROE recommendation is within his estimated COE and supported by substantial evidence. Therefore, we determine an appropriate ROE for PWR is 7.31%, as recommended by Mr. Rothschild. This ROE is at the upper end of the two experts' range, bringing it in line with the true market cost of equity. The ROE will satisfy the requirements of Hope and Bluefield, allowing the Company the opportunity to earn a reasonable return, as well as protect consumers from excessive rates that are unjust or unreasonable.

VII. TARIFF MODIFICATIONS

In PWR's last rate case, Docket 2018-82-S, the Commission approved a tampering charge not to exceed \$250.¹⁴⁹ PWR proposes to modify the language in its tariff imposing a tampering charge of up to \$500.¹⁵⁰ ORS did not object to the proposal. DCA witness Morgan objected to the charge because the Company could only show one instance "involving tampering, damage or vandalism for 2018 through 2021."¹⁵¹ Therefore, he recommended the tampering charge be limited to \$250.¹⁵² PWR notes the proposed charge has been approved by the Commission for at least one other jurisdictional utility, serves as a deterrent, and benefits other customers as it shifts costs to the persons or entities causing such damage.¹⁵³ This modification is agreed to by the parties in the partial stipulation and adopted by the Commission.¹⁵⁴

¹⁴⁹ Order No. 2019-314, p. 15.

¹⁵⁰ Application, p. 2, Para. 5.

¹⁵¹ Morgan Dir., p. 14, l. 24 – p. 15, l. 2; Tr. pp. 233.14-233.15.

¹⁵² Morgan Dir., p. 15, ll. 7-9; Tr. p. 233.15.

¹⁵³ Application, p. 4, Para. 14.

¹⁵⁴ Partial Stipulation, p. 6, Para. 12; Hr'g Ex. 2, p. 6.

The partial stipulation also indicates PWR has agreed to remove Section 13-Limitation of Liability from its Rate Schedule.¹⁵⁵ The current language limits the Company's liability to customers in circumstances where there is an interruption of service to "those remedies provided in the Commission's rules and regulations governing wastewater utilities."¹⁵⁶ Current regulations only permit the Commission to impose fines or penalties that are payable to the general fund. Therefore, the current tariff language may prevent customers from being made whole or bringing a civil action to recover damages resulting from an interruption of service. Based on these findings and the agreement of the parties, the Commission adopts the removal of Section 13.

Finally, the partial stipulation indicates PWR has agreed to remove language in Section 1-Monthly Charge that would allow it to refuse service to a customer that is current on their account due to another account being delinquent in the same multi-unit building.¹⁵⁷ The Commission also approves and adopts this tariff modification.

IX. ADJUSTMENTS TO REVENUE

In its Application, the Company proposed certain revenue adjustments and requested \$499,003 in additional revenue.¹⁵⁸ Through its direct testimony, ORS also made proposed adjustments based on its audit of the Company, resulting in an additional revenue recommendation of \$117,000.¹⁵⁹ In its surrebuttal testimony, ORS's adjustments were revised, resulting in \$111,222 in additional revenues.¹⁶⁰ In his direct testimony, DCA witness Morgan recommended adjustments that reduced certain allocated shared corporate costs, resulting in an overall revenue

¹⁵⁵ Partial Stipulation, p. 5, Para. 10; Hr'g Ex. 2, p. 5.

¹⁵⁶ Application Exhibit A, p. 6, Para. 13.

¹⁵⁷ Partial Stipulation, p. 5, Para. 11; Hr'g Ex. 2, p. 5.

¹⁵⁸ Application Exhibit B, Schedule B, pp. 18-25.

¹⁵⁹ Seale Dir., p. 17, ll. 4-5; Tr. p. 240.17. See also Seale Dir. Exhibits CLS-1, -2; Hr'g Ex. 11, p. 20 of 25, pp. 21-25 of 31.

¹⁶⁰ Seale Surr. Exhibits CLS-1, -2; Hr'g Ex. 12, p. 1, pp. 2- 6.

decrease of \$370,404 for PWR.¹⁶¹ Based upon the Company's rebuttal testimony and responses to ORS discovery requests, Mr. Morgan revised his recommendations and his surrebuttal testimony recommended a revenue decrease of \$1,129.¹⁶²

Mr. Morgan also recommended a billed revenues adjustment to reflect an updated number of Equivalent Residential Connections ("ERCs").¹⁶³ The Company's revenue numbers were based on 8,006 ERCs as of December 31, 2020.¹⁶⁴ Mr. Morgan recommended an adjustment to annualize revenues based upon the number of ERCs (8,043) as of April 30, 2021.¹⁶⁵ Based on numbers at the end of August 2021, ORS used 8,078 ERCs in its revenue calculations.¹⁶⁶ Mr. Morgan also noted the test year was a very unusual year because of the impact of the COVID-19 pandemic and recommended an adjustment to normalize the level of Other Wastewater Revenue to avoid an understatement of revenues.¹⁶⁷ He based his adjustment on the average of Other Wastewater Revenues for the two years prior to the test year, resulting in an adjustment that increases Other Wastewater Revenues by \$17,480.¹⁶⁸

Lastly, Mr. Morgan recommend adjustments to rate case expenses.¹⁶⁹ He recommended removal of \$26,667 related to the previous rate case because those costs should be fully recovered when the rates from this proceeding go into effect.¹⁷⁰ The Company later testified that the expenses have been fully amortized and recovered.¹⁷¹ He also recommended the use of a 3-year

¹⁶¹ Morgan Dir., p. 15, ll. 11-14; Tr. p. 233.15.

¹⁶² Morgan Surr., p. 5, ll. 20-24; Tr. p. 235.5.

¹⁶³ Morgan Dir., p. 6, ll. 4-6; Tr. p. 233.6.

¹⁶⁴ Application Exhibit B, Schedule E, p. 31.

¹⁶⁵ Morgan Dir., p. 6, ll. 4-18; Tr. p. 233.6.

¹⁶⁶ Hunnell Dir., p. 9, ll. 14-18; Tr. p. 253.9.

¹⁶⁷ Morgan Dir., p. 6, l. 24 – p. 7, l. 22; Tr. pp. 233.6-233.7.

¹⁶⁸ Morgan Dir., p. 7, ll. 19-22; Tr. p. 233.7.

¹⁶⁹ Morgan Dir., p. 8, l. 5; Tr. p. 233.8.

¹⁷⁰ Morgan Dir., p. 8, ll. 5-10; Tr. p. 233.8.

¹⁷¹ Burkett Reb., p. 5, ll. 5-9; Tr. p. 168.5.

period to amortize rate case expenses related to this proceeding.¹⁷² ORS also recommended a 3-year amortization.¹⁷³

In the stipulation, the parties agreed to the recommendations, adjustments, and customer protections in the testimony and exhibits of ORS witnesses.¹⁷⁴ The Commission adopts and approves the adjustments as set forth in ORS’s testimony and the stipulation.

X. FINDINGS OF FACT AND CONCLUSIONS OF LAW

Based upon the discussion as set forth herein, and the record of the instant proceeding, the Commission makes the following Findings of Fact and Conclusions of Law:

1. PWR is a public utility as defined in S.C. Code § 58-5-10(4). It provides sewer service in its assigned service areas in Richland and Lexington Counties.
2. The Commission is vested with authority to regulate rates of every public utility in this state and to ascertain and fix just and reasonable rates for service. S.C. §58-5-210, et. seq. PWR’s operations in South Carolina are subject to the jurisdiction of the Commission.
3. The Commission finds the rate base methodology to be warranted and appropriate in this proceeding.
4. The Commission finds the twelve months beginning January 1, 2020 and ending December 31, 2020 are an appropriate test year in this proceeding.
5. The return on rate base methodology requires three components: capital structure, cost of debt, and cost of equity (or return on equity, “ROE”).

¹⁷² Morgan Dir., p. 8, ll. 11-13; Tr. p. 233.8.

¹⁷³ Seale Dir., p. 7, ll. 4-12; Tr. p. 240.7. See also Seale Dir. Exhibit CLS-2; Hr’g Ex. 11, pp. 21-25 of 31.

¹⁷⁴ Partial Stipulation p. 4, Para. 4; Hr’g Ex. 2, p. 4.

6. The Commission finds a capital structure of 45.00% debt and 55.00% equity to be just and reasonable.

7. The Commission finds a cost of debt of 3.79% to be just and reasonable.

8. The Company requested the opportunity to earn a 10.95% ROE. The Commission agrees with witnesses from ORS and DCA and finds the Company's request is too high.

9. The Commission finds that analysis and testimony provided by DCA witness Rothschild and ORS witness Garrett to be substantial, and more accurately reflects the true cost of equity for PWR.

10. The Commission finds Rothschild and Garrett to be credible, reliable, and without prejudice in balancing the interests of the consumer and the utility.

11. The Commission finds the cost of equity for PWR is between the range of 6.13% to 8.0% as presented by Rothschild and Garrett.

12. The Commission finds an ROE of 7.31% for PWR is appropriate, just and reasonable.

13. The Commission finds that the adjustments as discussed and listed previously above in this Order are just and reasonable and the Commission hereby adopts and approves the same.

14. The Commission finds, for the reasons discussed herein, that the Stipulations are fair, just, and reasonable for both the Company and its customers.

15. The Commission concludes the rates, fees, and charges included in this Order are fair and reasonable and will allow the Company to continue the proper discharge of its public duties while protecting customers from rates that are so excessive as to be unjust or unreasonable.

XI. ORDERING PROVISIONS

IT IS THEREFORE ORDERED THAT:

1. The Company's rates shall be set using the rate base methodology; with a return on rate base of 5.73% based upon a return on equity of 7.31%, cost of debt of 3.79% and a capital structure of 45.00% debt and 55.00% equity.

2. All adjustments in the Partial Stipulation are adopted.

3. The tariff language related to limitation of liability for interruption or failure to furnish service the Company proposed has been withdrawn and is not approved. The other modifications the Company proposed to the language in its Rate Schedule as reflected in the Partial Stipulation are approved.

4. PWR shall not file for a general rate case before eighteen (18) months from the date the order is issued in this proceeding, such that new rates will not be effective prior to twenty-four (24) months from the date the final order is issued in this proceeding as reflected in the Partial Stipulation.

This Order shall remain in full force and effect until further order of the Commission.

BY ORDER OF THE COMMISSION:

Justin Williams, Chairman

ATTEST:

Florence P. Belser, Vice-Chairman